
**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, NORTHERN DIVISION**

TAMMY SHELTON

Plaintiff,

v.

CAFÉ RIO
d.b.a. CAFÉ RIO MEXICAN GRILL,

Defendant.

Case No. 1:17-cv-00101-JNP-BCW

**REPORT AND RECOMMENDATION
DENYING PLAINTIFF’S MOTION TO
EXTEND TIME FOR SERVICE AND
DISMISSING COMPLAINT WITHOUT
PREJUDICE**

Honorable Jill N. Parrish
Magistrate Judge Brooke C. Wells

This matter is before the Court on Plaintiff’s Motion to Extend Time for Service upon Defendant Café Rio (“Motion”).¹ Plaintiff filed her Complaint on June 13, 2017.² Pursuant to FRCP 4(m), Plaintiff had ninety (90) days, or until September 11, 2017,³ to serve the Complaint on Defendant. Nearly two months after the September 11, 2017 deadline passed, Plaintiff filed this Motion. In requesting an extension of time to serve Defendant, Plaintiff states that she diligently attempted to locate Defendant’s statutory agent and was unable to identify Defendant’s agent for service until recently.

The Court is not persuaded by Plaintiff’s Motion. Identifying a registered agent, of a registered company, is the simple task of performing a business entity search.⁴ Café Rio, Inc.

¹ Docket no. 7.

² Docket no. 2.

³ Plaintiff erroneously states in her Motion that the service deadline was October 13, 2017.

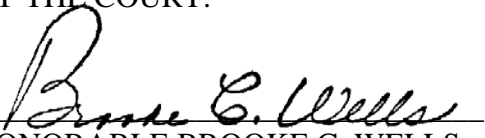
⁴ <https://secure.utah.gov/bes/>

d/b/a Café Rio Mexican Grill is a registered corporation in good standing with the state of Utah,⁵ and its' registered agent is listed and identifiable for service.⁶ Without a detailed affidavit explaining why Plaintiff was unable to complete this simple task within ninety (90) days of filing the Complaint, this Court cannot find that good cause exists for the requested extension. Further, the requested extension was not timely as the Motion was filed fifty-three (53) days after the deadline for service had passed.

Accordingly, this Court recommends that the Motion be DENIED. Further, pursuant to FRCP 4(m) and based on the Plaintiff's failure to serve the Complaint, this Court recommends that this action be DISMISSED without PREJUDICE.

DATED this 7th day of November, 2017.

BY THE COURT:


HONORABLE BROOKE C. WELLS
United States District Court Magistrate Judge

NOTICE

The Court will send copies of this Report and Recommendation to all parties, who are hereby notified of their right to object.⁷ The parties must file any objection to this Report and Recommendation within fourteen (14) days of service thereof.⁸ Failure to object may constitute waiver of the objections upon subsequent review.

⁵ Café Rio, Inc. d/b/a Café Rio Mexican Grill, Entity No. 1360146-0142.

⁶ Registered Agent is T. Mickell Jimenez, 201 S. Main Street, 13th Floor, Salt Lake City, UT 84111.

⁷ See [28 U.S.C. § 636\(b\)\(1\)](#); [Fed. R. Civ. P. 72\(b\)](#).

⁸ *Id.*